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*25 Aug 89*  
*Leg With Comment*

24 August 1989  
OCA 3009-89

*From:* ✓  
MEMORANDUM FOR: General Counsel

FROM: *To:* [Redacted]  
Legislation Division  
Office of Congressional Affairs

STAT

SUBJECT: Proposed Action by OCA to Thwart Reenactment of  
Secrecy Agreement Prohibition

1. The attached draft letter is provided to you for your comments.

2. As you may be aware, identical provisions of the Secrecy Agreement prohibition were approved in the House and Senate versions of the Treasury, Postal Service, and General Government Appropriations Act for Fiscal Year 1990. The Bill, however, has been referred to conference because of other differences between the two chambers. We expect that the conference committees will take action on this Bill quickly upon their return from summer recess.

3. Therefore, we propose to send a finalized version of the draft letter signed by the DCI, the Attorney General and the Director of the Information Security Oversight Office asking that the conference members delete section 615 from the Bill sent to the President for signature. Although we anticipate that it will be difficult to persuade the conferees to take this action, we believe that this may be our last realistic chance to defeat this provision.

4. It would be helpful if we could have your comments by COB Friday, 25 August. We will have to start the coordination process through DOJ and OMB, if we are to have this letter to the conferees by early September.

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Attachment

[Redacted]

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OCA 3009-89

SUBJECT: Proposed Action by OCA to Thwart Reenactment of  
Secrecy Agreement Prohibition

OCA/LEG/ [ ] (24 Aug 1989)

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OCA 3009-89

SUBJECT: Proposed Action by OCA to Thwart Reenactment of  
Secrecy Agreement Prohibition

OCA/LEG, [REDACTED] (24 Aug 1989)

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Dear \_\_\_\_\_:

The Treasury, Post Office, Executive Office of the President, and Independent Agencies Appropriations Act for Fiscal Year 1990 will soon be discussed in a Committee of Conference. We believe that section 615 of the Senate version of this Bill (section 619 in H.R. 2989) significantly undermines the ability of the President to protect intelligence sources and methods through the use of nondisclosure forms. The Administration is strenuously opposed to enactment of this section, and urges that the Conference Committee delete the provision from the Bill.

As you are aware, section 615/619 prohibits the use of any appropriated funds to implement or enforce agreements that forbid Executive Branch personnel from disclosing classified information outside of normal channels and procedures. The genesis of the original version of this provision grew out of a concern by some Members of Congress over the term "classifiable," which appeared in nondisclosure forms that were in effect in 1987. Section 615/619 is virtually identical to

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